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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,038

04/08/2005

Wilfried Weitzer

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01/28/2008

INTELLECTUAL PROPERTY / TECHNOLOGY LAW

PO BOX 14329

RESEARCH TRIANGLE PARK, NC 27709

EXAMINER

BUCKLE JR, JAMES J

ART UNIT

PAPER NUMBER

4155

MAIL DATE

DELIVERY MODE

01/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/520,038	Applicant(s) WEITZER, WILFRIED	
	Examiner JAMES J. BUCKLE JR	Art Unit 4155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/04/2005;05/02/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

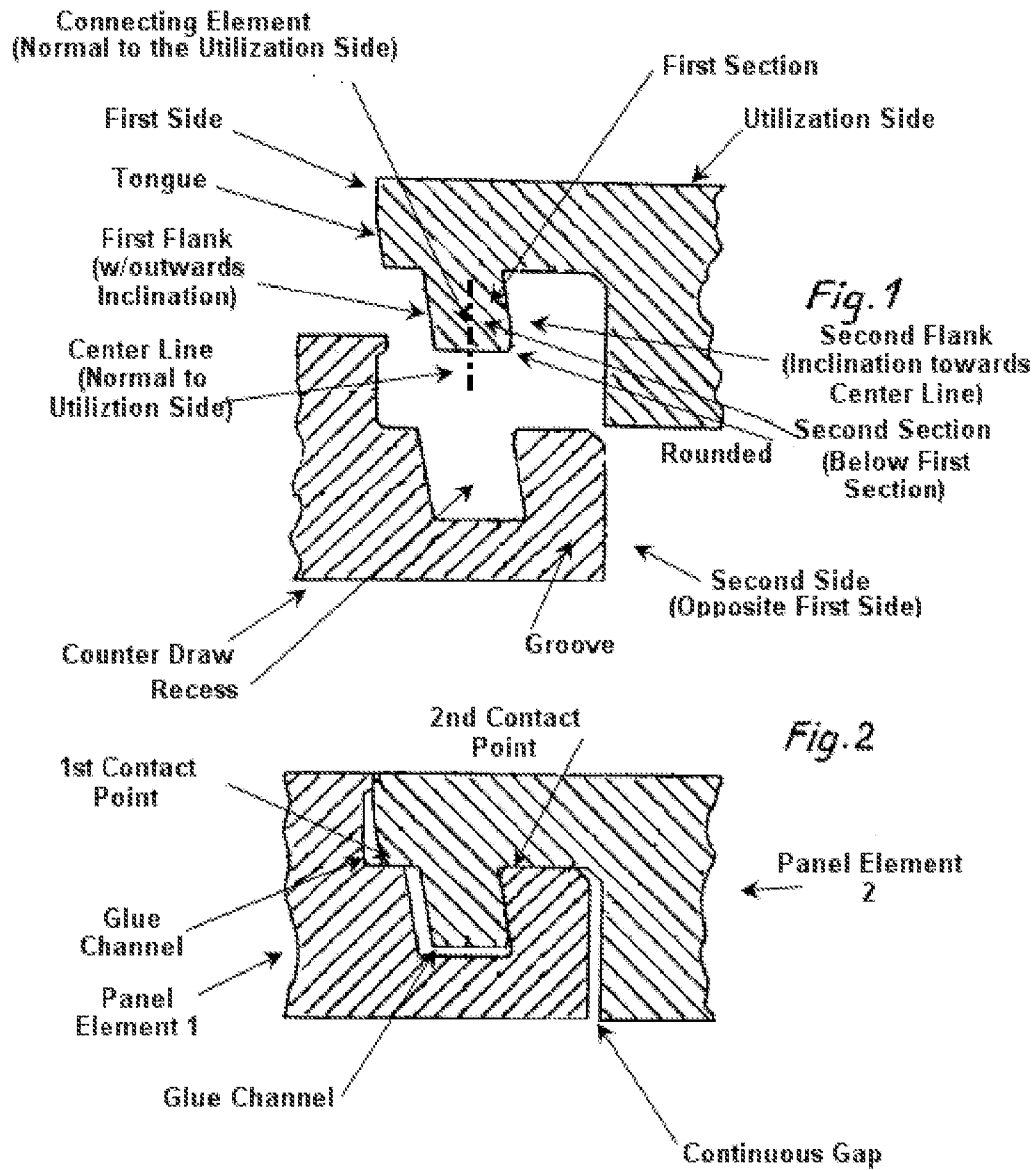
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
2. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Otto et al. (DE19933343).
3. Regarding claims 1-4, Otto et al. (Fig.1, Examiner amended)

discloses a panel element comprising a **utilization side, a counter draw opposite the utilization side, a first side having a tongue, a second side which is located opposite the first side and has a groove with a contour opposite to that of the tongue, the tongue having a connecting element which extends substantially normal to the utilization side and whose cross-section has a first flank and a second flank opposite the first flank, the cross-section of the connecting element having a first section and a second section essentially parallel to the plane of the utilization side, wherein the first section is positioned near the utilization side and the second section positioned below the first section and having a center line normal to the utilization side and viewed in the direction of utilization**

side the inclination of the first flank and the second flank each points from the center line outwards in the first section of the connecting element and in the second section the inclination of the first flank points from the center line outwards and the inclination of the second flank points to the center line, the distance normal to the center line being reduced between the first flank and second flank, characterized in that the first flank is arranged on the side facing away from the panel element of connecting element(Claim 1), and wherein the inclination of the first flank and the inclination of the second flank are substantially constant in the first section(Claim 2). The first flank has an angle inclination smaller in the first section than that of the second flank in the first section(Claim 3) and that the inclination of the first flank is substantially constant in the second section and commensurate with the inclination of the first flank in the first section (Claim 4).



Reproduced from DE19933343 (Examiner Amended)

4. Regarding claim 5, Otto et al. discloses a second flank is rounded in the second section ("Rounded", Examiner amended, Fig.1).
5. Regarding claim 6, Otto et al. further discloses a groove having a **recess with a contour opposite to that of the connecting element** and when groove is connected with tongue of another similar panel element, a

- first contact pint is formed on the first flank of the connecting element and a second contact point is formed on the second flank of the connecting element essentially opposite to the first contact point** (“Recess”, “1st and 2nd Contact Point”, Examiner amended Fig.1 and 2).
6. Regarding claims 7 and 8, Otto et al. discloses a **glue channel is formed in the recess of the groove on a surface of the recess parallel to the counter draw side** (“Glue Channel”, Examiner amended Fig.2).
7. Regarding claim 9, Otto et al. discloses a continuous gap adjacent to at least a section of the second side formed by a tongue of one panel element being connected to the groove of another similar panel element. (“Continuous Gap”, Examiner amended Fig.2)
8. Regarding claim 11 and 12, Otto et al. discloses, an interlocking floor system as set forth in claims 11 and 12 (Fig.1, Examiner amended). Examiner notes that claims 11 and 12 are virtually similar to claims 1 to 4 which have been addressed. See rejections to claims 1 to 4 above.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1,

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148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
11. Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Otto et al. in view of Finkell, Jr. (U.S Patent No. 5,797,237).
12. Regarding claim 10, Otto et al. discloses, a panel element as set forth above, but does not disclose a hydrophobic agent. However, Finkell, Jr. teaches a "hydrophobic agent" (Column 2, Lines 42-45) that is used to at least partially treat the panel elements to prevent deterioration by water infiltration. Otto et al. and Finkell, Jr. are analogous art because both are from the field of endeavors of Panel elements. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the panel element of Otto et al. with the hydrophobic agent of Finkell, Jr. to produce a panel element that would not be subjected to water infiltration.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES J. BUCKLE JR whose telephone number is (571)270-3739. The examiner can normally be reached on Monday-Thursday, Alternating Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/
Victor Batson
Supervisory Patent Examiner
Art Unit 4155

JJB